Senate Joint Resolution No. 24

Adopted in Senate August 10, 2004

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Secretary of the Senate

Adopted in Assembly July 1, 2004

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Chief Clerk of the Assembly

This resolution was received by the Secretary of State this _____ day of _____, 2004, at _____ o'clock __M.

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Deputy Secretary of State

RESOLUTION CHAPTER _____

Senate Joint Resolution No. 24—Relative to pharmaceutical advertising.

LEGISLATIVE COUNSEL'S DIGEST

SJR 24, Ortiz. Pharmaceutical advertising.

This measure would memorialize the President and Congress of the United States to recognize the problems caused by direct-to-consumer advertising of prescription drugs by pharmaceutical companies and to take specified actions in the regulation of consumer advertising of prescription drugs.

WHEREAS, The United States is one of just a few countries that allow pharmaceutical companies to advertise their prescription drugs; and

WHEREAS, In 1997, the federal Food and Drug Administration relaxed restrictions on the content of direct-to-consumer prescription drug advertising, withdrawing the prior requirement for a summary of side-effect and adverse reaction information and replacing it with a requirement for a statement about ''major risks'' but not ''all risks''; and

WHEREAS, The shorter ''major risk'' statement made television and radio advertisements about prescription drugs more practicable; and

WHEREAS, Pharmaceutical companies spent $1.6 billion on direct-to-consumer television advertising in 2000, up from $761 million in 1996; and

WHEREAS, While health care spending generally is expected to increase by an average of 7.9 percent per year between 1998 and 2010, exceeding the 5.2 percent annual growth of 1993 to 1998, total prescription drug expenditures will increase by 15 percent per year as early as 2004; and

WHEREAS, Numerous studies have linked the increased direct-to-consumer advertising to the exponential growth in prescription drug expenditures; and

WHEREAS, Surveys suggest that 50 percent of the public believes that direct-to-consumer advertisements of prescription drugs must be submitted to the government for prior approval, 43

percent believe that only ''completely safe'' drugs may be advertised directly to consumers, 22 percent believe that advertising of drugs with serious side effect has been banned, and 21 percent believe that only ''extremely effective'' drugs may be advertised directly to consumers, and yet, all of these beliefs are untrue; and

WHEREAS, Consumers are placing pressure on their prescribers to prescribe these drugs, some cases, inappropriately; and

WHEREAS, In 1997, a study of family physicians revealed that 80 percent of them believed that direct-to-consumer advertising ''was not a good idea''; and

WHEREAS, The federal Food and Drug Administration has begun a review of the policy that unleashed an explosive growth of prescription drug advertising; now, therefore, be it

Resolved, That the President and Congress of the United States and the United States Department of Health and Human Services are memorialized to recognize the problems caused by direct-to-consumer advertising of prescription drugs by pharmaceutical companies; and be it further

Resolved, That the United States Food and Drug Administration is requested to aggressively monitor and regulate direct-to-consumer advertising of prescription drugs by pharmaceutical companies, pending action by the President and the Congress of the United States to limit, ban, or place increased restrictions on that advertising; and be it further

Resolved, That the President and the Congress of the United States are memorialized to limit or ban direct-to-consumer advertising of prescription drugs by pharmaceutical companies, or, alternatively, to require that those advertisements do the following:

(1) Remind consumers that prescribers and pharmacists are the best sources of information about appropriate medical treatment and drug therapy.

(2) Explicitly state the success and failure rates of drugs and compare them with other common products or no treatment.

(3) Mention alternate treatments by name and class.

(4) Recommend that consumers ask their prescribers and pharmacists if a generic equivalent is available for their condition.

(5) Refer consumers to independent sources of drug information; and be it further

Resolved, That the Secretary of the Senate transmit copies of this resolution to the President of the United States, the Speaker of the House of Representatives, the President pro Tempore of the Senate, to each Senator and Representative from California in the Congress of the United States, to the Secretary of the United States Department of Health and Human Services, and the Director of the United States Food and Drug Administration.

Attest:

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Secretary of State